

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CASE NO. 3:21-CV-405-RJC-DCK**

MICHAEL PIMENTEL,)	
)	
Plaintiff,)	
)	
v.)	<u>ORDER</u>
)	
GOVERNMENT EMPLOYEES)	
INSURANCE COMPANY, INC.,)	
)	
Defendant.)	
)	

THIS MATTER IS BEFORE THE COURT on “Plaintiff’s Motion To Compel Discovery Responses” (Document No. 27) filed March 30, 2022 and “Plaintiff’s Motion To Modify Scheduling Order” (Document No. 30) filed April 1, 2022. These motions have been referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636(b), and are ripe for disposition. Having carefully considered the motion and the record, and following consultation with the Honorable Robert J. Conrad, Jr.’s chambers, the undersigned will deny the motions.

By the instant motion to compel, Plaintiff seeks to compel Defendant to produce “class-wide information or documentation.” (Document No. 27-1, p. 1, 14). Plaintiff contends that Defendant has engaged in “gamesmanship” and “calculated efforts . . . to waste judicial resources.” (Document No. 27-1, p. 1). According to Plaintiff, Defendant has declined to provide class-wide discovery “until ‘*if and when* ordered to do so by the Court.’” Id.

In response, Defendant asserts that it has “responded completely to discovery concerning the named Plaintiff” and argues that Plaintiff demands discovery that is “beyond the needs of the case and relates to a ‘class’ to which Plaintiff is not a part and therefore could not represent.” (Document No. 33, pp. 1-2). In addition, Defendant notes that Judge Conrad held a scheduling

conference on October 18, 2021, and decided to adopt a single-plaintiff track discovery plan. (Document No. 33, p. 3). Defendant notes that Plaintiff had forecast that he intended to move for conditional class certification by mid-February 2022, but to date, has not filed such a motion. Id. (citing Document No. 10, p. 2).

The undersigned observes that the parties' "Certification And Report Of Fed.R.Civ.P. 26(f) Conference And Discovery Plan" offered competing discovery plans and that counsel requested a conference with the Court before entry of a scheduling order. See (Document No. 10, p. 3). Judge Conrad held a scheduling conference on October 18, 2021, and then issued his "Pretrial Order And Case Management Plan" (Document No. 21) on October 28, 2021. Notably, the "Pretrial Order..." adopted most, if not all, of Defendant's proposed deadlines.

Based on consultation with Judge Conrad's staff and review of a transcript of the October 18, 2021 scheduling conference, it is apparent that the parties had a dispute from the outset of this case as to whether this case should be treated, and scheduled, as a single plaintiff case or a class action. Judge Conrad decided to schedule discovery in this case on a single Plaintiff/Defendant basis, and opined that if Plaintiff filed a motion for conditional certification, and the Court granted that motion, the Court would then reconsider the timelines (and discovery limits) imposed in the scheduling order.

Plaintiff's motion to modify the scheduling order seeks to extend the case deadline by approximately six (6) months. (Document No. 30-1). The crux of Plaintiff's position – directly related to the motion to compel – seems to be that he needs more time to conduct class-wide discovery that Defendant has declined to cooperate in.

As noted above, to date, Plaintiff has not sought conditional class certification. Under these circumstances, the undersigned will decline to extend the case deadlines or expand the scope of

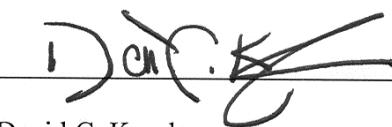
discovery in this action in a manner that is inconsistent with Judge Conrad's clear expectations for this case. Rather, the undersigned finds that these motions should be denied, without prejudice to Plaintiff filing revised motions, if necessary, that seek discovery and/or additional time consistent with the "Pretrial Order...," and/or without prejudice to renewed motions if the Court later allows a request to expand the scope of this case.

IT IS, THEREFORE, ORDERED that "Plaintiff's Motion To Compel Discovery Responses" (Document No. 27) is **DENIED WITHOUT PREJUDICE**.

IT IS FURTHER ORDERED that "Plaintiff's Motion To Modify Scheduling Order" (Document No. 30) is **DENIED WITHOUT PREJUDICE**.

SO ORDERED.

Signed: April 28, 2022



David C. Keesler
United States Magistrate Judge
